

House Study Bill 627 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act relating to direct care professionals including the
2 establishment of a board of direct care professionals,
3 providing for implementation, making penalties applicable,
4 and including effective date provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 152F.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Board*" means the board of direct care professionals
5 created under chapter 147.

6 2. "*Community living professional*" means a direct care
7 associate who has completed advanced training and is certified
8 to provide home and community living, instrumental activities
9 of daily living, and personal support services.

10 3. "*Direct care associate*" means a direct care provider who
11 has completed core training and is certified to provide direct
12 care services in the state.

13 4. "*Direct care instructor*" means an individual approved
14 by the board to provide direct care instruction to direct care
15 providers and direct care professionals.

16 5. "*Direct care professional*" means a direct care associate,
17 a community living professional, a health support professional,
18 a personal support professional, or a direct care associate who
19 has received a specialty endorsement.

20 6. "*Direct care provider*" means an individual who provides
21 direct care services for compensation.

22 7. "*Direct care services*" means services provided to
23 individuals who are ill or individuals with disabilities,
24 including but not limited to home and community living
25 services, instrumental activities of daily living services,
26 personal activities of daily living services, personal support
27 services, and health monitoring and maintenance services.

28 8. "*Direct care trainer*" means a direct care instructor who
29 is approved by the board to train instructors.

30 9. "*Health monitoring and maintenance services*" means
31 medically-oriented services that assist an individual in
32 maintaining the individual's health including measuring intake
33 and output; providing catheter and ostomy care; collecting
34 specimens; checking vital signs, including temperature, pulse,
35 respiration, and blood pressure; measuring height and weight;

1 performing range of motion exercises; providing assistance with
2 urinary care; and application of thrombo embolic deterrent hose
3 or hot and cold packs.

4 10. "*Health support professional*" means a direct care
5 associate who has completed advanced training and is certified
6 to provide personal activities of daily living and health
7 monitoring and maintenance services.

8 11. "*Home and community living services*" means services to
9 enhance or maintain independence of individuals including such
10 activities as helping individuals develop and meet personal
11 goals, providing direct physical and emotional support and
12 assistance for persons with disabilities, utilizing crisis
13 intervention and positive behavior supports, and using and
14 following individual support plans.

15 12. "*Instrumental activities of daily living services*" means
16 services provided to assist individuals with daily living tasks
17 to allow them to function independently in a home or community
18 setting, including but not limited to assistance with managing
19 money, transportation, light housekeeping, and shopping and
20 cooking.

21 13. "*Personal activities of daily living services*" means
22 services to assist individuals in meeting basic needs,
23 including but not limited to bathing, back rubs, and skin care;
24 grooming activities; assistance with dressing and undressing;
25 assistance with eating and feeding; assistance with toileting;
26 and assistance with mobility, including transfers, walking, and
27 turning in bed.

28 14. "*Personal support professional*" means a direct care
29 associate who has completed advanced training and is certified
30 to provide instrumental activities of daily living, personal
31 activities of daily living, and personal support services.

32 15. "*Personal support services*" means support services
33 provided to an individual as the individual performs personal
34 activities of daily living including but not limited to
35 coaching and prompting, and teaching skills and behaviors.

1 16. "*Specialty endorsement*" means an advanced level of
2 certification based on requirements developed by experts in a
3 particular discipline or professional area and approved by the
4 board.

5 Sec. 2. NEW SECTION. 152F.2 Certification required —
6 exceptions — use of title.

7 1. Unless otherwise exempt under section 152F.4, beginning
8 January 1, 2014, a direct care provider shall not provide
9 direct care services in this state without being certified as a
10 direct care associate.

11 2. A direct care provider who is not certified pursuant
12 to this chapter shall not use words or titles which imply
13 or represent that the person is certified as a direct care
14 professional under this chapter.

15 3. A direct care associate shall not act as or represent
16 that the person is a direct care professional with advanced
17 training certification or a specialty endorsement, unless the
18 direct care associate is first certified at the appropriate
19 level of certification under this chapter.

20 4. Notwithstanding any provision to the contrary, a person
21 who completes advanced training or meets the requirements for
22 a specialty endorsement is not required to be certified at
23 that level if the person does not act as or represent that the
24 person is certified at that level. Section 147.83 does not
25 apply to a direct care associate who is not certified as a
26 direct care professional with advanced training certification
27 or a specialty endorsement if the direct care associate does
28 not act as or represent that the person is certified at that
29 level.

30 Sec. 3. NEW SECTION. 152F.3 Requirements to obtain
31 certification — renewal — continuing education — reciprocity.

32 1. An applicant for certification as a direct care associate
33 shall present evidence satisfactory to the board that the
34 applicant meets all of the following requirements:

35 a. The applicant has successfully completed the required

1 education for the certification from a board-approved direct
2 care instructor or direct care trainer.

3 *b.* The applicant has paid all fees required by the board.

4 *c.* The applicant certifies that the applicant will conduct
5 all professional activities in accordance with standards for
6 professional conduct established by the board.

7 2. An applicant for certification as a direct care
8 professional with advanced training or a specialty endorsement
9 shall present evidence satisfactory to the board that the
10 applicant meets all of the following requirements:

11 *a.* The applicant has successfully completed the required
12 education for the certification from a board-approved direct
13 care instructor or direct care trainer.

14 *b.* The applicant has paid all fees required by the board.

15 *c.* The applicant has passed a state examination approved by
16 the board.

17 *d.* The applicant certifies that the applicant will conduct
18 all professional activities in accordance with standards for
19 professional conduct established by the board.

20 3. A person shall renew the person's certification
21 biennially. Prior to such renewal, the person shall present
22 evidence that the person has satisfied continuing education
23 requirements and shall pay a renewal fee as determined by the
24 board.

25 4. The board shall issue the appropriate certification to an
26 applicant who demonstrates experience in direct care services
27 in another state and meets the requirements established by the
28 board for the specific certification.

29 Sec. 4. NEW SECTION. 152F.4 **Scope of chapter.**

30 The provisions of this chapter do not apply to any of the
31 following:

32 1. A person who is providing direct care services to a
33 family member with or without compensation or through the
34 medical assistance consumer choice option program.

35 2. A person otherwise licensed who is operating within the

1 scope of that license and does not represent to the public that
2 the person is a direct care professional.

3 **Sec. 5. NEW SECTION. 152F.5 Duties of the board.**

4 The board shall do all of the following:

5 1. Adopt rules consistent with this chapter, chapter 147,
6 and chapter 272C which are necessary for the performance of its
7 duties.

8 2. Adopt rules to provide a transition process that allows
9 direct care providers providing direct care services on or
10 before July 1, 2014, to continue providing direct care services
11 while completing certification under this chapter. A direct
12 care provider subject to the transition process shall complete
13 the requirements for direct care associate certification no
14 later than June 30, 2015.

15 3. Establish standards and guidelines for certification
16 reciprocity.

17 4. Establish standards and guidelines for direct care
18 associates, including minimum curriculum requirements.

19 5. Prepare and conduct, or prescribe, an examination for
20 applicants for certification.

21 6. Establish standards and guidelines for direct care
22 instructors and direct care trainers, including minimum
23 curriculum requirements and continuing education requirements.

24 7. Define educational activities which fulfill continuing
25 education requirements for renewal of certification.

26 8. Establish guidelines for inactive certification status
27 and inactive certification reentry.

28 **Sec. 6. NEW SECTION. 152F.6 Certification suspension and
29 revocation.**

30 A certification issued by the board under this chapter may be
31 suspended or revoked, or renewal of certification may be denied
32 by the board, for violation of any provision of this chapter,
33 section 147.55 or 272C.10, or rules adopted by the board.

34 **Sec. 7.** Section 147.1, subsections 3 and 6, Code 2011, are
35 amended to read as follows:

1 3. "*Licensed*" or "*certified*", when applied to a physician
2 and surgeon, podiatric physician, osteopathic physician and
3 surgeon, physician assistant, psychologist, chiropractor,
4 nurse, dentist, dental hygienist, dental assistant,
5 optometrist, speech pathologist, audiologist, pharmacist,
6 physical therapist, physical therapist assistant, occupational
7 therapist, occupational therapy assistant, respiratory care
8 practitioner, practitioner of cosmetology arts and sciences,
9 practitioner of barbering, funeral director, dietitian, marital
10 and family therapist, mental health counselor, social worker,
11 massage therapist, athletic trainer, acupuncturist, nursing
12 home administrator, hearing aid dispenser, ~~or~~ sign language
13 interpreter or transliterator, or direct care professional
14 means a person licensed under this subtitle.

15 6. "*Profession*" means medicine and surgery, podiatry,
16 osteopathic medicine and surgery, practice as a physician
17 assistant, psychology, chiropractic, nursing, dentistry,
18 dental hygiene, dental assisting, optometry, speech pathology,
19 audiology, pharmacy, physical therapy, physical therapist
20 assisting, occupational therapy, occupational therapy
21 assisting, respiratory care, cosmetology arts and sciences,
22 barbering, mortuary science, marital and family therapy, mental
23 health counseling, social work, dietetics, massage therapy,
24 athletic training, acupuncture, nursing home administration,
25 hearing aid dispensing, ~~or~~ sign language interpreting or
26 transliterating, or practice as a direct care professional.

27 Sec. 8. Section 147.2, subsection 1, Code 2011, is amended
28 to read as follows:

29 1. A person shall not engage in the practice of medicine
30 and surgery, podiatry, osteopathic medicine and surgery,
31 psychology, chiropractic, physical therapy, physical therapist
32 assisting, nursing, dentistry, dental hygiene, dental
33 assisting, optometry, speech pathology, audiology, occupational
34 therapy, occupational therapy assisting, respiratory care,
35 pharmacy, cosmetology arts and sciences, barbering, social

1 work, dietetics, marital and family therapy or mental health
2 counseling, massage therapy, mortuary science, athletic
3 training, acupuncture, nursing home administration, hearing aid
4 dispensing, or sign language interpreting or transliterating,
5 or shall not practice as a physician assistant or as a direct
6 care professional, unless the person has obtained a license for
7 that purpose from the board for the profession.

8 Sec. 9. Section 147.13, Code 2011, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 24. For direct care professionals, the
11 board of direct care professionals.

12 Sec. 10. Section 147.14, subsection 1, Code 2011, is amended
13 by adding the following new paragraph:

14 NEW PARAGRAPH. x. For the board of direct care
15 professionals, a total of nine members, five of whom are
16 direct care professionals who represent diverse settings and
17 populations served, two members of the public, one registered
18 nurse who serves as a direct care instructor, and one human
19 services professional who serves as a direct care instructor.

20 Sec. 11. Section 147.74, Code 2011, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 24. A direct care professional certified
23 under chapter 152F and this chapter may use the following:

24 a. A direct care professional certified as a direct care
25 associate may use the title "direct care associate" or D.C.A.
26 after the person's name.

27 b. A direct care professional certified as a community
28 living professional may use the title "community living
29 professional" or the letters C.L.P. after the person's name.

30 c. A direct care professional certified as a personal
31 support professional may use the title "personal support
32 professional" or the letters P.S.P. after the person's name.

33 d. A direct care professional certified as a health support
34 professional may use the title "health support professional" or
35 the letters H.S.P. after the person's name.

1 e. A direct care professional certified with a specialty
2 endorsement may use the title or letters determined by the
3 specialty endorsement entity and approved by the board of
4 direct care professionals.

5 Sec. 12. Section 272C.1, subsection 6, Code 2011, is amended
6 by adding the following new paragraph:

7 NEW PARAGRAPH. *ag.* The board of direct care professionals,
8 created pursuant to chapter 147.

9 Sec. 13. TRANSITION PROVISIONS.

10 1. A direct care provider providing direct care services
11 on or before January 1, 2014, may continue providing direct
12 care services while completing certification as required under
13 this Act. The board of direct care professionals shall adopt
14 rules to provide a transition process that allows such direct
15 care providers to complete the requirements for direct care
16 associate certification no later than June 30, 2015.

17 2. Notwithstanding sections 147.14 and 147.16, for the
18 initial board of direct care professionals, the governor may
19 appoint, subject to confirmation by the senate, in lieu of the
20 five members required to be direct care associates and the two
21 members required to be direct care instructors, members with
22 experience and expertise that is substantially equivalent to
23 the professional requirements for a direct care associate or
24 direct care instructor, as applicable.

25 Sec. 14. IMPLEMENTATION. The provisions of this Act shall
26 be implemented as follows:

27 1. The sections of this Act relating to the board of direct
28 care professionals including sections 152F.1 and 152F.5, as
29 enacted in this Act; sections 147.13, 147.14, and 272C.1,
30 as amended in this Act, and as specified in the transition
31 provisions; and the section of this Act providing transition
32 provisions relating to the board shall be implemented so that a
33 board of direct care professionals is appointed no later than
34 December 15, 2012.

35 2. The sections of this Act relating to requirements for

1 certification of direct care professionals including sections
2 152F.2, 152F.3, 152F.4, and 152F.6, as enacted in this Act;
3 and sections 147.1, 147.2, and 147.74, as amended in this Act,
4 shall be implemented so that the requirements are applicable
5 beginning no later than January 1, 2014.

6 Sec. 15. EFFECTIVE UPON ENACTMENT. This Act, being deemed
7 of immediate importance, takes effect upon enactment.

8 EXPLANATION

9 This bill provides for the certification of direct care
10 professionals under new Code chapter 152F. The bill provides
11 definitions relating to levels of certification and services
12 provided, and defines the "board" as the board of direct care
13 professionals.

14 The bill requires individuals who provide direct care
15 services for compensation (direct care providers) to be
16 certified as direct care associates.

17 The bill also provides for advanced training and specialty
18 endorsements as the bases for higher levels of certification.

19 The bill provides requirements for certification, renewal
20 of certification, continuing education, and reciprocity
21 of certification. The bill provides for exemptions
22 from certification and for suspension or revocation of
23 certification. The bill specifies the duties of the board of
24 direct care professionals.

25 The bill makes conforming changes in the Code under
26 Code chapter 147 (general provisions for health-related
27 professions), and Code chapter 272C (regulation of licensed
28 professions and occupations).

29 The bill provides transition provisions for the initial
30 appointment of the board and for application of requirements
31 to direct care providers providing direct care services prior
32 to implementation of direct care professional requirements on
33 January 1, 2014. The bill takes effect upon enactment, but
34 provides for phased-in implementation.

35 The provisions of Code chapters 147 and 272C, including

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1 a provision in Code section 147.86 that a violation of Code
2 chapter 147 or 152F is a serious misdemeanor, are applicable to
3 new Code chapter 152F.